

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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January 13, 1999

Rob:

1. I made this a preliminary draft because I thought that you would want to "fine tune" it.

2. As we discussed, the implication of the submitted language was that the repair shop would provide the notice and authorization form because the form was to be attached to the repair estimate and there was no language requiring the insurer to deliver the form to the insured. Because you wanted the insurer to be responsible for delivering the form, I have retained, with amendments, much more of current law than the proposed draft did. Section 632.38 (3) (a) addresses the situation in which the insurer or insurer's representative prepares the estimate; s. 632.38 (3) (b) addresses the situation in which the insurer or insurer's representative approves an estimate that the insured has obtained; and s. 632.38 (3) (c) prohibits the insurer or insurer's representative from requiring the repair shop to deliver the notice and authorization form.

3. Under the proposed language, whether the form allowed the insured to choose some of each type of replacement part was optional with the insurer (at least that is how I interpreted the language). I required the form to allow the choice. Let me know if you want this changed.

4. Will it be necessary for repair shops to provide at least two estimates, one with the use of nonoriginal parts and one with the use of original parts? If the insured chooses some nonoriginal parts and some original parts, an estimate could be impossible to give beforehand. Section 632.38 (3) (b) could be problematic because the insurer may approve an estimate that is lower only because of the proposed use of nonoriginal parts. If the insured does not authorize the use of the nonoriginal parts, the estimate that was approved by the insurer, based on the use of nonoriginal parts, may actually be higher than estimates rejected by the insurer. Do you want to address this issue in this draft?

5. Do you want to provide a definition for "original manufacturer replacement part"? If so, the defined term would replace the description in s. 632.38 (2) (c).

Pamela J. Kahler
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